

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

BRUCE TOWNSEND

v.

402CV148
498CR106

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.

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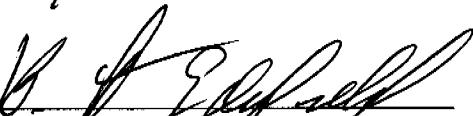
CLERK *MW*
SO. DIST. OF GA.

UNITED STATES

ORDER

The Court **DENIES** Bruce Townsend's F.R.Civ.P. 60(b) motion (402CV148 doc. # 23) because he has unsuccessfully moved for 28 U.S.C. § 2255 relief before, doc. ## 1, 10, 16, 18, and despite the current Rule 60(b) label he now employs, he in fact is moving for § 2255 relief again. This he cannot do without first obtaining permission from the Eleventh Circuit. *See, e.g., In re Nailor, ____ F.3d ___, 2007 WL 1555784 at * 3 (6th Cir. 5/31/07)* (motion for relief from prior judgment denying motion to vacate filed by federal prisoner convicted of possession with intent to distribute cocaine base was properly construed as a successive motion to vacate; defendant's Rule 60(b) motion asserted that he could not be sentenced lawfully under provisions that specified penalties when the quantity of cocaine base at issue was 50 grams or more because the indictment against him alleged only that the quantity of cocaine base at issue was approximately 50 grams, so that the motion either attacked the resolution of prior motion to vacate, which raised an ineffective assistance of counsel claim on a similar argument, or it raised a new claim for relief from the sentence).

This 9 day of July, 2007.


B. AVANT EDENFIELD, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA